

June 1, 2006

MEMORANDUM

TO: All Persons Interested in Certificate  
of Public Need ("COPN") Adjudications

FROM: Douglas R. Harris  
Adjudication Officer

SUBJECT: Communications

Recent developments have underscored the need for guidelines addressing communications with the adjudication officer who conducts informal fact finding conferences ("IFFCs") on applications for COPNs. **The intent of this memorandum is to promote due process, increase the predictability and reliability of administrative procedure and prevent unwarranted allegations of impropriety.**

If a COPN applicant, an attorney representing an applicant or a representative of a health planning agency ("HPA") needs clarification of a general issue relating to a proposed project or information regarding scheduling of an IFFC, that person should direct a request to this Department's Division of COPN ("DCOPN"). If such a person needs clarification of an issue relating to an application that will be undergoing adjudication and a request to DCOPN cannot resolve such an issue, the person should call the adjudication paralegal, Lynette Woolfolk, at (804) 864-7018. If necessary, Ms. Woolfolk will thereafter attempt to schedule a brief teleconference in which all persons expecting to be parties at an IFFC, DCOPN staff and the adjudication officer will be afforded an opportunity to participate.

The guidance document setting forth policies and procedures for COPN IFFCs (VDH Guidance Document ADJ-003) is currently effective, but revisions are under consideration. One of the areas targeted for revision involves communications in general, and email and telephone calls in particular. Until such time as that document is revised and reissued, please note the following policy: **Effective immediately (and as many persons familiar with COPN IFFCs currently understand), (i) any attorney representing a party to an IFFC that relates to a pending public need determination (whether that IFFC is upcoming or has been held), (ii) any attorney representing a person interested in a pending public need determination, and (iii) any person who is expecting to be a party to or a witness at an upcoming IFFC, or who has been a party to or a witness at an IFFC relating to a pending determination, should not attempt to place a telephone call directly to the adjudication officer.** Additionally, as is already customary, all emails and other correspondence directed to the adjudication officer should be copied to all parties to an IFFC and will be forwarded to DCOPN for inclusion in the administrative record. Ms. Woolfolk remains available to coordinate an appropriate means to discuss a pertinent issue, as noted above.